

MEMORANDUM OF UNDERSTANDING

between The

CITY OF HOLLISTER

and The

HOLLISTER MID-MANAGEMENT ASSOCIATION

January 1st, 2011 - June 30th, 2013

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Article 1. Preamble

This Memorandum of Understanding is entered into by the City of Hollister, hereinafter referred to as "City", and the Hollister Mid-Management Association, hereinafter referred to as "Association". This Memorandum of Understanding hereinafter referred to as "M.O.U.", is subject to Sections 3500-3510 of the Government Code of the State of California, otherwise known as the Meyers-Milias-Brown Act.

Article 2. No Discrimination

The City and the Association agree that there shall be no discrimination against any employee in the unit because of race, religion, creed, political affiliations, color, national origin, ancestry, age, sex, or sexual orientation unless defined as a bona-fide occupation qualification as defined by Federal or State law. The City and Association also agree not to discriminate against any employee for his/her activity on behalf of, or membership in or lack of membership in, the Association. Any employee alleging a violation of this article shall have the burden of proving the existence of a discriminatory act or acts and of proving that but for such act or acts the alleged injury or damage to the grievant would not have occurred.

Article 3. Recognition

Pursuant to Section 3500-3510 of the Government Code, the City certifies the Association as the recognized majority representative for all regular career full-time employees in the Mid-Management Unit. The Mid-Management Unit includes:

- *Animal Control Supervisor*
- *Senior Civil Engineer*
- *Associate Engineer*
- *Associate Civil Engineer*
- *Associate Engineer - Traffic*
- *Capital Improvement Project Manager*
- *Fleet Maintenance Supervisor*
- *Information Systems Manager*
- *Parks Maintenance Supervisor*
- *Code Enforcement Officer*
- *Planning Manager*
- *Public Works Superintendent*
- *Recreation Services Manager*
- *Redevelopment Projects Coordinator*
- *Senior Wastewater Treatment Plant Operator*
- *Senior Planner*
- *Streets Maintenance Supervisor*
- *Utilities Supervisor*
- *Economic Development Manager*

The City agrees to notify the Mid-Management Association within two (2) business days when an employee is hired or promoted to a position within the unit. The notification shall include the name, position, and department to which the employee is assigned.

Article 4. No Abrogation of Rights

This M.O.U. does not modify any City Council rights.

Article 5. Maintenance of Benefits

The articles included in this agreement constitute a full and complete agreement with the City and Association on all matters within the scope of representation for the period stated in Article 17 "Term Of Agreement." All present resolutions, ordinances, rules and regulations, practices and policies covering matters within the scope of representation will continue in force and effect during said period without change, except to conform to the terms of this M.O.U. subject to meet and confer. Notice of any matter proposed to be changed will be provided to the Association in a timely fashion.

Article 6. Salary and Special Compensation

A. Salary Adjustment

1. Effective the first pay period beginning on or after adoption of this M.O.U., a Five Percent (5.000%) reduction representing one-hundred and four (104) hours or thirteen (13) days without compensation per fiscal year will be applied to all Mid-Management Employees consistent with Section [18] herein entitled "Furloughs and Furlough Provisions."

B. Retirement

1. Contribution

- a. All employees within this unit are responsible for payment of all costs associated with the increase in the Employee's contribution from the current "2.0% @ 55" to the "2.5% at Age 55" Retirement Benefit in excess of the current 7% Employee Contribution.
- b. All Employees in this unit are also responsible for paying the difference in the costs associated with the increase in the Employer's Contribution from the "2%

@ Age 55" to the "2.5% @ Age 55" Retirement Benefits. This increase will be determined through an actuarial valuation conducted annually in accordance with Paragraph [c] below.

- c. Each year the City will obtain the services of a Certified Actuary at the City's sole discretion. Each year the cost of the actuarial services shall be paid by each employee within the City of Hollister's CalPERS Miscellaneous Plan on a proportional basis. Each employee shall pay his/her share of these actuarial costs through payroll deductions which will vary from year to year depending on the cost of the services and the number of employees in the Miscellaneous Plan.
- d. Effective the first Pay Period beginning on or after July 1st, 2012, all Mid-Management Employees shall pay an additional 4.00% of their salary as part of the Employee's contribution to one of the following:

Miscellaneous Mid-Management: CalPERS 2.50% @ 55 Retirement Benefit

- *Employees hired prior to the scheduled Contract Amendment to 2.00% @ 60.*

Miscellaneous Mid-Management: CalPERS 2.00% @ 60 Retirement Benefit

- *Employees hired on or after the scheduled Contract Amendment to 2.00% @ 60.*

- e. All Employee deductions, except for actuarial costs, shall be pre-taxed payroll deductions pursuant to CalPERS IRC 414h[2].

2. 1959 PERS Survivor Death Benefit

The City shall provide the PERS Section 21574 "Fourth Level 1959 Survivor Death Benefit" for all eligible unit members for the term of this contract. The City shall pay the employer rate contribution. The employee shall pay the member rate contribution.

3. One Year Final Compensation Benefit

- a. The City shall provide the PERS Section 20042 "One Year Final Compensation" benefit for eligible unit members.
- b. The City shall continue to pay all of the employer and member contributions

to CalPERS for each eligible member of the unit for this benefit based upon the 2.00% @ 55 Retirement Formula. Any costs associated with the increase in contributions for the CalPERS "2.50% @ 55" Retirement Benefit, if applicable, shall be paid by the members in accordance with Article 6, Section B[1][b] above.

4. Modifications

The Hollister Mid-Management Association agrees to support the Contract Amendment between the City of Hollister and the California Public Employees Retirement System establishing a second level of benefits at the 2.000% @ 60 Retirement Formula.

Upon membership approval by the majority of all eligible employees within the City's CalPERS Miscellaneous Plan, and in accordance with the CalPERS Schedule of Agency Actions as required for the Miscellaneous Plan, the City shall implement a CalPERS "2% at age 60" Retirement Plan for all eligible employees who are hired on or after the date of the CalPERS contract amendment.

C. Bilingual Allowance

Employees who perform technical bilingual skills (reading, writing, translation) and who successfully pass a City-administered proficiency test shall receive an allowance of one hundred twenty-five dollars (\$125.00) per month. If any other bargaining unit within the City negotiates a bilingual allowance greater than one hundred twenty five dollars (\$125.00) per month, eligible unit members will receive the greater amount.

D. Overtime and Holiday Pay

1. Any employee represented by this unit who is determined to be overtime eligible as defined by the Fair Labor Standards Act (FLSA) and who is authorized or required to work overtime in excess of eight (8) hours per day or forty (40) hours per week shall be compensated at the rate of time and one-half for each hour worked.
2. Any employee represented by this unit who is determined to be overtime eligible as defined by the Fair Labor Standards Act (FLSA) and is authorized or required to work on any City-recognized holiday shall be compensated at the rate of time and one-half for each hour worked in addition to their regular holiday pay.

3. Any employee represented by this unit who is determined to be overtime ineligible as defined by the Fair Labor Standards Act (FLSA) shall receive Administrative Leave as identified in Article 12. Miscellaneous, Section [P] "Administrative Leave" below.

E. Compensatory Time

Any employees represented by this unit who are determined to be overtime eligible as defined by the Fair Labor Standards Act (FLSA) and who are authorized or required to work overtime shall have the option to either receive paid compensation at a rate one and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours per day or forty (40) hours per week, or to take compensatory time off from duty at a rate one and one-half (1½) times the amount of each overtime hour worked which exceeds eight (8) hours per day or forty (40) hours per week.

Overtime eligible employees who work holidays shall have the option to either receive paid compensation at a rate one and one-half (1½) times the employees' regular pay rate plus receive employees' regular eight (8) hours paid compensation, or to take compensatory time off from duty at a rate one and one-half (1½) times the amount of each hour worked plus the eight (8) hours regular paid time. Employees who are called in on holidays shall also receive this option.

Employees may accumulate a maximum of two-hundred forty (240) hours (160 FLSA overtime hours worked) in their "Compensatory Time Bank".

F. 24-Hour Hazardous Materials (Hazmat) Certification Premium Pay

Employees covered by this agreement who are required to perform duties and respond to emergency situations involving exposure to hazardous materials, and who possess and maintain a 24-Hour Hazardous Materials Technician Level III certification that meets 29 CFR 1910.120(q) shall be paid Premium Pay of five percent (5.0%) so long as they are assigned such responsibilities and maintain current certification for this Premium Pay.

Eligibility shall be effective on the first Payroll Period following ratification of this Memorandum of Understanding.

The City will review annually the number and types of occurrences to which employees qualifying for this Premium Pay are called to respond in order to determine the cost-effectiveness of maintaining this program. The City reserves the right to re-negotiate the

amount of the Premium Pay in consideration of the number and magnitude of the incidents, the actual response by the employee(s) both during and outside normal business hours, and other factors deemed relevant by the City.

G. Land Surveyor License Certification

All employees of this unit who possess and maintain a valid California Land Surveyor License shall receive Annual Incentive Pay of five percent (5%) of base salary, payable as part of the employee's bi-weekly payroll.

H. Cross-Connection Specialist Certification

All employees who possess and maintain a valid California and Nevada Cross-Connection Specialist Certification shall receive Annual Incentive Pay of five percent (5%) of base salary, payable as part of the employee's bi-weekly payroll. This certification shall be utilized for the upkeep and maintenance of, and be funded solely through the City's Water and Wastewater Enterprise Systems.

I. Longevity Bonus Pay

Effective July 1st, 2009, longevity bonus pay shall be paid to employees of this unit who complete the following specified consecutive years of service after the effective date of this M.O.U.:

<u>NUMBER OF CONSECUTIVE YEARS</u>	<u>LONGEVITY BONUS PAY</u>
<i>10 - 14 Years</i>	<i>Three Percent (3.0%) of Base Salary</i>
<i>15 - 19 Years</i>	<i>Six Percent (6.0%) of Base Salary</i>
<i>20 or more Years</i>	<i>Nine Percent (9.0%) of Base Salary</i>

Unit members who were eligible for and received longevity bonus pay prior to July 1st, 2009 shall be entitled to receive the difference between the previous longevity bonus pay and the increased longevity bonus pay provided in this M.O.U. so that the net result is that all employees with equivalent years of service will receive the same longevity pay amount. Unit members shall be limited to one category of longevity bonus pay. If a member of this unit initially received this pay while a member of another bargaining unit, the employee shall not be entitled to any additional longevity pay.

J. Standby Pay

Upon ratification of this M.O.U., employees covered by this agreement who are assigned to standby duty shall be paid two-hundred dollars (\$200.00) for each week they are so assigned. The City shall have full discretion in making and administering standby assignments. This shall include, but not be limited to, the authority of the City to:

1. require an employee to be available at all hours by telephone or to use a pager.
2. restrict the employee's travel in order to perform standby assignments.
3. require the employee refrain from activities which would impair the employee's ability to respond to emergency situations.

K. Telephone Stipend

The City agrees to provide all eligible Mid-Management Employees with a Telephone Stipend in the amount of \$40.00 per month. The issuance, application and reporting of this stipend shall be in accordance with all terms and conditions as defined by the Internal Revenue Service.

L. Notary Public Commission Pay

Any Mid-Management Employee who possesses and maintains a Notary Public Commission shall receive an allowance of \$125.00 per month. Employees who receive Notary Public Commission Pay shall remain subject to the needs and requirements of the City.

Article 7. Insurance

A. Description

The City of Hollister Flexible Benefits Plan/Cafeteria Plan (hereinafter "Plan") is available to full-time employees (hereinafter "Employees"). There will be three participation levels as referenced under Section E.. Optional benefits are listed below. Once an election is made, it will remain in force until the next open enrollment period. A Third Party Administrator (T.P.A.) fee will be paid by the employees that participate in the Plan.

B. Health Insurance Options

The City shall provide employees with the choice of participating in either the Public Employees' Medical and Hospital Care Act (PEMHCA) program offered by CALPERS or the

Blue Cross HMO program.

C. IRS Code Section 125 Flexible Benefits/Cafeteria Plan

1. The City shall provide for unit members an IRS Code Section 125 Flexible Benefits/Cafeteria Plan in accordance with all applicable state and federal laws and regulations.
2. The City shall contribute towards the PEMHCA or Blue Cross HMO medical, dental and vision care plan amounts allocated in accordance with the City's IRS Code Section 125 Flexible Benefits/Cafeteria Plan as specified below.
3. The City shall allocate specified amounts of "Flex Credits" to the employee's flexible benefit account. These amounts shall consist of the following:
 - a. An amount up to and not to exceed the City's contribution towards medical insurance, based upon either the Blue Cross HMO or PEMHCA's PERS Choice medical plans, whichever plan is greater. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
 - b. An amount equivalent to the City's contribution towards dental insurance. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
 - c. An amount equivalent to the City's contribution towards vision insurance. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
4. In the event that surplus Flex Credits are available, any Mid-Management Employee shall have the option to allocate such Flex Credits to one of the following:
 - a. Mid-Management Employees' Flexible Spending Account.
 - b. Roth Individual Retirement Account (IRA)
 - c. ICMA or City-authorized 457 Deferred Compensation Plan.
5. Employees who waive either dental and/or vision coverage shall have the option to apply available flex credits towards the cost of any optional premium listed in the

respective sections below. The cost of the optional premium not covered by available flex credits shall remain the employee's responsibility.

6. Employees who elect to waive any or all health coverage shall be subject to the terms and provisions described under Section [J] below.

D. Terms for Health Care Participation

Participation and coverage in the medical, dental and vision care plans shall be in accordance with the terms and conditions of the insurance carrier.

E. Health Care Contributions

1. Employee-only Premium

The City shall contribute towards the medical, dental and vision insurance plans an amount equal to the employee-only premium at the time of adoption of this M.O.U. for each member of the unit for the term of this M.O.U. The employee-only premium for medical insurance shall be based on the higher premium of either PEMHCA's PERS Choice or Blue Cross HMO.

2. Employee Option for Dependent Coverage

For those employees who elect the option for dependent coverage for medical, dental and vision insurance plans, the City shall contribute monthly amounts toward such dependent coverage based upon the higher premium of either PEMHCA's PERS Choice or Blue Cross HMO in accordance with Section [C] above, so that the employee pays no more than the following:

<i>Medical - One Dependent</i>	<i>\$32.55</i>
<i>Medical - Family</i>	<i>\$57.54</i>
<i>Dental - One Dependent</i>	<i>\$ 8.69</i>
<i>Dental - Family</i>	<i>\$19.39</i>
<i>Vision - One Dependent</i>	<i>\$29.93</i>
<i>Vision - Family</i>	<i>\$29.93</i>

F. Vision Insurance

The City shall provide a vision care insurance plan which is available to eligible unit members

and qualified dependents during the term of this M.O.U..

The City shall offer vision care insurance for employees and qualified dependents as a pre-tax flexible benefit option. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier.

G. Dental Insurance

The City shall offer dental care insurance for employees and qualified dependents as a pre-tax flexible benefit option. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier.

H. Life Insurance

The City shall provide term life insurance in the amount equal to \$100,000.00 for each member of the unit for the term of this M.O.U. Additional term life insurance may be purchased by the employee at the employee's cost in increments of \$10,000.00 up to a total of \$250,000.00.

I. Long Term Disability Insurance

The City agrees to provide to all employees within this unit at City cost a Supplemental Long Term Disability Plan, coordinated with other existing benefits to provide no more than a thirty (30) day exclusion or elimination period; no less than a one year benefit for accident or illness; and a minimum scheduled benefit of sixty-six percent (66%) or two-thirds ($\frac{2}{3}$) of gross salary to a maximum of three-thousand, five hundred dollars (\$3,500.00) per month for the term of this M.O.U.. The City in its sole discretion shall select the Supplemental Long Term Disability Plan carrier that meets these requirements.

J. Health Insurance Waiver Option

1. Employees within this unit who elect not to participate in the City's health care insurance program will be compensated in an amount equivalent to seventy-five percent (75%) of the employer's contribution towards the premiums for the City's health plan at the level in which the employee was participating (employee only, employee plus one dependent, employee plus two or more dependents) at the time of waiving City insurance coverage in accordance with Section [3] below. This cash amount will be paid as part of the employee's bi-weekly payroll.

2. Employees within this unit shall be eligible to elect not to participate in the City's health care program only after participating under the same level of the City's health care insurance plan for a minimum period of one year immediately preceding the election.
3. Employees within this unit electing not to participate in the City's health care insurance program must annually provide proof of medical insurance coverage by an outside provider in order to maintain payment under this waiver option.
4. For employees who elect not to participate in the group medical coverage offered by the City, the City will provide dental and vision coverage for the employee and his/her dependents at no cost to the employee.
5. In addition to the coverage options specified under "Article 7. Insurance" of the Memorandum of Understanding between the City of Hollister and Mid-Management, the following optional health benefits, identified in Section [K]. "Optional Health Benefits" shall be available to the employees of this unit.

K. Optional Health Benefits

Employees within this unit that have elected to participate in a City-offered medical plan can also elect to participate in the optional benefits. If the employee has any surplus flex credits after making all elections required to participate in the medical insurance, the employee can use that surplus toward optional qualified insurance benefits or one or both of the pre-tax spending accounts. Employees that wish to participate in the optional benefits plan, but do not have any surplus credits, can elect to have pre-tax payroll deductions in an amount to cover the cost of their elections.

Employees may pay the premiums for the following benefits on a voluntary basis:

- Medical Insurance
- Dental Insurance
- Vision Insurance
- Group Term Insurance up to \$50,000.00 for Employees only
- Accidental Death and Dismemberment Insurance
- Short Term Disability
- Cancer Insurance
- Supplemental Health Insurance
- Vision or Dental Insurance

- Accidental Only Insurance
- Intensive Care Insurance

L. Flexible Spending Accounts (FSA's)

The City agrees to establish a pre-tax dependent care reimbursement account up to the maximum reimbursement allowed by law to be funded by employee.

The City agrees to establish a pre-tax medical reimbursement account, up to two thousand five hundred dollars (\$2500.00) per year per employee to be funded by employee.

M. Voluntary Life Insurance

The City shall offer a voluntary supplemental life insurance plan through the flexible benefits plan for pre-tax contributions by the employees. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier. Employees may also elect pre-tax payroll deductions to support other City sponsored voluntary supplemental insurance benefits.

N. Miscellaneous

The City of Hollister does not allow the employee to take the surplus credits in taxable cash.

Article 8. Personnel System Rules and Regulations

This M.O.U. sets forth certain benefits and working conditions for employees in the Mid-Management Association. Other rules, regulations, policies and general working conditions governing employment for employees covered by this M.O.U. are set forth in the Personnel System Rules and Regulations of the City except that the discipline proposed or imposed on employees within this unit shall be subject to the procedures specified in Exhibit [A] entitled Section [12]. Disciplinary Procedures, which is incorporated herein by this reference. If during the term of this M.O.U. the City desires to amend the Personnel System Rules and Regulations the City shall give notice to the Association of the proposed changes. Representatives of the City and Association shall meet in a timely manner. Hours, wages and general working conditions contained in the Personnel System Rules and Regulations are the proper subjects of the grievance procedure.

Article 9. Job Related Disabilities and The Americans With Disabilities Act

A. Job Related Disabilities

City shall comply with the Labor Code of the State of California for employees within this unit deemed disabled or temporarily disabled as a result and because of such job related injury which requires them to be absent from active City service.

B. Americans With Disabilities Act

The parties recognize that the City may be required to make accommodations in order to carry out its obligations under the Americans with Disabilities Act (ADA). Some of the accommodations may require actions which are contrary to the language or intent of existing provisions of this agreement. The parties agree that such accommodation relating to ADA shall not constitute a 'past practice' or waiver by either party of its right to fully enforce such provisions in the future with regard to persons not subject to the protection of the ADA. The parties recognize that circumstances surrounding ADA compliance in individual cases may involve matters which are personal and require the utmost confidentiality. Specifics of an individual case may not be divulged by the City. However, the City, when the release of information is either authorized or will not violate confidentiality, will notify the Association when an accommodation has been made that affects other employees in the workplace. Accommodations made by the City under this Article shall not be subject to the grievance procedure.

Article 10. Safety Compliance and Equipment

A. Safety Compliance

The City and Association shall meet the requirements of Cal OSHA. The Association further agrees to bring any safety concerns immediately to the attention of management.

B. Safety Boot Allowance

Eligible unit employees in the classifications of Senior Civil Engineer, Associate Engineer, Associate Civil Engineer, Associate Engineer - Traffic, Capital Improvement Project Manager, and Code Enforcement Officer shall be reimbursed up to one-hundred seventy-five dollars (\$175.00) per year, upon presentation of satisfactory proof-of-purchase, for safety shoes or boots which are approved and authorized by City Management. Used safety shoes and boots are the property of the City and shall be returned to the City. This allowance is to assist employees in purchasing City-approved work shoes and/or boots appropriate for the type of work being performed in accordance with General Industry Safety Orders, Title 8, Section

3385. Appropriate safety shoes and boots shall incorporate the following safety factors depending on the type of work performed:

1. Non-skid sole
2. Adequate ankle protection
3. Puncture protection
4. Impact/compression protection

Eligible unit employees in the classifications of Streets Maintenance Supervisor, Utilities Supervisor, Animal Control Supervisor, Fleet Maintenance Supervisor, Parks Maintenance Supervisor, Public Works Superintendent, and Senior Wastewater Treatment Plant Operator shall be reimbursed up to three-hundred dollars (\$300.00) per year, upon presentation of satisfactory proof-of-purchase, for safety shoes or boots which are approved and authorized by City Management.

Unit employees in the classifications of Recreation Services Manager, Senior Planner, Planning Manager, Information Systems Manager, Economic Development Manager, and Redevelopment Agency Projects Coordinator shall not be eligible for this safety boot allowance.

Article 11. Grievance Procedure

This grievance procedure shall be the sole and exclusive procedure for resolving grievances filed by employees covered by this M.O.U.

A. Definition

A grievance is a claimed violation, misapplication or misinterpretation of a specific provision of this agreement or the City's Personnel System Rules and Regulations which adversely affects the grievant.

B. Stale Grievance

A grievance shall be void unless filed in writing within fifteen (15) calendar days from the date upon which the City is alleged to have misinterpreted or misapplied this agreement, or within fifteen (15) calendar days from the time an employee might reasonably have been expected to have learned of the alleged misinterpretation or misapplication. Such discovery period shall not exceed 180 days regardless of the date of discovery. In no event shall a grievance include a claim for money relief for more than the fifteen (15) day period plus such reasonable discovery

period.

C. Informal Discussion with Employee's Supervisor

Before proceeding to the formal grievance procedure, an employee shall discuss his/her grievance with his/her immediate supervisor in private and attempt to work out a satisfactory solution. Any solution reached at this level must be reviewed by the Personnel Officer to assure compliance with this agreement before it has any binding effect.

D. Formal Written Grievance to Employee's Supervisor

If the employee chooses to formally pursue his/her grievance, he/she or his/her representative shall present the written grievance to his/her immediate supervisor within five (5) working days after the date upon which the grieving employee informally discusses the grievance with the supervisor. (In the event a group grievance is formally submitted by the recognized employee organization, its initial submission will be to the department head and subsequent steps will be followed as outlined in this section.) The formal written grievance shall specify the provisions of this M.O.U. or the City's Personnel System Rules and Regulations alleged to have been misinterpreted or misapplied; the remedy sought; and such other specific dates, times, places and persons and other facts necessary to derive a clear understanding of the matter being grieved. The immediate supervisor shall return a copy of the written grievance to the employee with the supervisor's answer thereto in writing within five (5) working days from receipt of the supervisor's answer within which to file an appeal to the next level.

E. Grievance to Department Head/City Manager

The department head or the City Manager, if the department head was the grievant's immediate supervisor, shall have seven (7) working days in which to review and answer the grievance in writing. Unless waived by mutual agreement of the employee or his/her representative and the department head or City Manager, a meeting is required at this level and the employee and his/her representative shall have the right to be present and participate in such a meeting. The time limits at this level may be extended by mutual agreement between the department head or City Manager and the employee or his/her representative.

F. Waiver of Appeal Steps

If the grievance is not resolved after the immediate supervisor has answered it in writing, the grievant(s) and the department head may, by mutual agreement, waive review of the grievance at Step [E] and proceed to present the grievance to the City Manager.

G. Advisory Fact Finding of Grievances

In the event the grievance is not resolved by the City Manager, the recognized employee organization may with fifteen (15) calendar days after receipt of the decision of the City Manager, request that the grievance be heard by a fact finder.

H. Selection of a Fact Finder

The fact finder shall be selected by mutual agreement between the City and the Association. If the parties are unable to agree on the selection of a fact finder, they shall jointly request the State Mediation and Conciliation Service to submit a list of five (5) qualified fact finders. The City and the grievant, or his/her representative, shall then alternately strike names from the list until only one name remains, and that person shall serve as fact finder.

I. Duty of Fact Finder

Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the fact finder to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a proposed disposition of the grievance which shall be advisory in nature.

The proposed disposition shall be based solely on the interpretation of the applicable provisions of the M.O.U. and other personnel rules if applicable to the grievance, and he/she shall not add to, subtract from, modify or disregard any of the terms or provisions of the M.O.U. or such rules.

J. Payment of Costs

Each party to a hearing before a fact finder shall bear its own expenses in connection therewith. All fees and expenses of the fact finder shall be borne one-half by the City and one-half by the grievant.

If the City does not implement the proposed disposition of the grievance made by the fact finder, the City shall pay all fees and expenses of the fact finder.

K. Effect of Failure of Timely Action

Failure of the employee(s) to file an appeal within the required time period at any level shall constitute an abandonment of the grievance. Failure of the City to respond within the time

limit at any step shall result in an automatic advancement of the grievance to the next step.

Article 12. Miscellaneous

A. Deferred Compensation Plan

The City shall provide a voluntary deferred compensation plan for all employees of this unit for the term of this M.O.U..

B. Tool Replacement Allowance

1. The City shall provide a tool replacement fund for the replacement of worn out or broken shop tools and the purchase of new shop tools as needed. This allowance will be available to those employees in the classification of Fleet Maintenance Supervisor who are required as a condition of employment to provide their own shop tools for the performance of their duties within City service. The utilization of this fund shall not exceed six hundred dollars (\$600.00) per employee for any fiscal year. All shop tools purchased and reimbursed under this provision shall be maintained by the employee so as to be immediately available for City work.
2. The employee shall acquire the tool(s) and shall present documented evidence (receipts and invoices, etc.) of the acquisition and ownership to the City for reimbursement. The Department Head or his designee may inspect and inventory all tools acquired under this provision.
3. The refusal to replace a tool by Management will not be a grievable matter.

C. Working Out of Classification Assignment

Unit employees assigned by management on a Personnel Action Form (P.A.F.) shall be compensated within the salary range for which the assignment is made but in no case less than five percent (5.00%) subject to the following:

1. The position must be vacant and budgeted.
2. Must be assigned by Management.
3. The grievance procedure shall not be utilized by unit members in any conflict and Management's assignment or non-assignment is final and binding upon all parties.

D. Vacation Leave, Sick Leave and Floating Holidays

1. Vacation

All unit members are entitled to ten (10) working days vacation pay upon successful completion of their first six (6) months of continuous service. Employees may take accrued vacation after the completion of six (6) months of service.

a. Vacation Accrual Rate

<u>Years of Service</u>	<u>Annual Vacation Accrual</u>
<i>1st through completion of 3rd</i>	<i>10 days</i>
<i>4th through completion of 7th</i>	<i>15 days</i>
<i>8th through completion of 15th</i>	<i>20 days</i>
<i>16th through completion of 20th</i>	<i>22 days</i>
<i>beginning of 21st year</i>	<i><u>25 days</u></i>

b. Maximum Accrual

Employees may only accumulate a maximum of 30 working days (240 hours) of vacation without the authorization of the City Manager. Accumulated vacation time of more than 30 days (240 hrs.) authorized by the City Manager must be used prior to the end of the calendar year or it will be lost.

c. Cash Out of Vacation

Employees may cash out up to maximum of forty (40) hours of vacation leave annually. Compensation for vacation leave cashed out will be made at the employee's rate of pay at the time of cash out. Requests for payment of vacation time shall be made in writing to the Department of Administrative Services at least thirty (30) days in advance of June 1st and December 1st of each year. Payments of cashed-out vacation leave will be made on the first pay day which follows June 1st and December 1st of each year. This payment will be made in the regular payroll check issued for that pay period.

2. Sick Leave

Sick leave shall be accrued at a rate of twelve (12) days per year (8 hours per month). Unused sick leave may be accrued without limit.

3. Floating Holidays

All eligible unit members shall receive two (2) floating holidays for their use on July 1 of each fiscal year.

E. Vacation Illness Conversion

If an employee of this unit is on vacation and becomes ill, he or she may convert vacation time to sick leave with pay. This conversion must be supported by a physician's statement.

F. Sick Leave Conversion To Cash

Eligible unit employees may be convert a percentage of accrued, unused sick leave to cash at death or retirement from City employment. The provisions for this policy are as follows:

1. Employees of this unit may not "cash out" or be compensated for any of the first two-hundred forty (240) hours of sick leave accrued.
2. Any current employee of this unit having completed ten (10) years of continuous service with the City and who retires from City service, will be compensated for fifty-percent (50%) of accrued, unused sick leave in excess of two-hundred forty (240) hours at the employee's hourly rate of pay at the time of retirement from City service.
3. The surviving spouse or State-registered Domestic Partner, beneficiary(s), dependent(s) or estate of any current employee of this unit who has completed ten (10) years of continuous service with the City and dies while employed by the City prior to retirement, will be compensated for 50% of accrued, unused sick leave in excess of two-hundred forty (240) hours at the employee's hourly rate of pay at the time of death.
4. Any current employee of this unit having completed ten (10) years of continuous service with the City and having an unused sick leave accrual balance exceeding five-hundred (500) hours may, at their option, "cash out" up to a maximum of 96 hours (12 days) of unused sick leave annually as long as the "cashed out" hours do not diminish the unused sick leave accrual balance to an amount less than five-hundred (500) hours.
5. Compensation for unused, accrued sick leave will be made at the employee's rate of pay at the time of "cash out". Requests for payment of unused sick leave as

described herein, shall be made in writing to the Finance Department at least thirty (30) days in advance of June 1st and December 1st of each year.

6. Payments of "cashed out" unused sick leave will be made on the first pay day which follows June 1st and December 1st of each year. A check separate from the normal payroll check shall be issued for payment of unused sick leave.

G. Flexible Work Schedule

Eligible unit members may work flexible work schedules (i.e. 4/10, 9/80, etc.) when feasible. It is not the intention of the City to reduce the number of hours that City services are available to the public. It is agreed that implementation of flexible work schedules shall be evaluated on a work unit basis, and will only be approved in those units where flexible work schedules can be implemented without reducing service levels and cost effectiveness.

H. Association Representatives Time Off For Training

1. City shall grant the Mid-Management Association Board an aggregate of forty (40) hours of paid time off from work per fiscal year for the purpose of attending Association- sponsored educational and training opportunities as shown below:
 - a. Executive Board Meetings
 - b. Advisory Board Meetings
 - c. Bargaining Team Training
 - d. Budget Training
2. It is agreed that the Association Representatives shall provide sufficient notice to their supervisors so that work schedules can be arranged to compensate for their absence.
3. The City will grant time off for "Meet and Confer" preparation and negotiations, for a time period not to exceed one hour before the respective negotiation session and one-half hour following the conclusion of same negotiation session.
4. Unless modified by mutual agreement at the onset of negotiations, time off in addition to that provided in H(3.) for any other "Meet and Confer" preparation shall be taken as leave in accordance with the City's established leave procedures and with sufficient notice to Supervisors to ensure appropriate coverage of operations.

I. Advance Notice

Except in cases of emergency as provided in Government Code § 3504.5, the City will provide (thirty) 30 days written notice to the Association of any ordinance, rule, resolution, or regulation directly related to matters within the scope of representation proposed to be adopted by the City and shall give the Association the opportunity to meet with the City. As provided by Government Code § 3504, "scope of representation" as used in this section shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. In cases of emergency when the City determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with the Association, the City shall provide notice and opportunity to meet at the earliest practicable time following the adoption of the ordinance, rule, resolution, or regulation.

J. Joint Association-Management Committee

The parties agree that a committee comprised of three (3) Management Representatives and three (3) Association Representatives will be established. The purpose of the committee shall be communication, information sharing, and problem solving on relevant issues such as employee work environment and policies and procedures.

K. Professional Development Incentive Program

Employees shall receive a bonus for obtaining certificates or degrees received after July 1st, 2000 provided the employee has completed their probationary period. A certificate bonus shall not be awarded if the certification or degree is a minimum requirement for their position. The certificate must relate to the employee's current position or future lateral or promotional opportunities with the General Employees Unit, Mid-Management Association or the unrepresented units of Confidential Employees and Executive Management.

Vocational Training, for purposes of this section, is defined as a minimum of one-hundred (100) hours of specific training in a career field which results in a certificate of completion. The minimum one-hundred (100) hours shall be documented classroom time or in the case of a correspondence program identified as the average length of time required to complete the program certification as documented by the certifying agency or institution. Only one (1) bonus per calendar year can be received by an employee. If an employee receives either a Ph.D., Master's degree or Bachelor's degree in a calendar year, the employee may also receive

one (1) additional bonus for a certificate earned in the same calendar year.

1. Professional Certificates - \$2,500.00 Lump Sum

- Professional Engineer Registration
- Professional Land Surveyor Registration
- Certified Public Accountant
- Engineer-In-Training
- Land Surveyor-In-Training
- American Institute of Certified Planners
- Paralegal Certificate
- Grade 5 Water Treatment Operator or Water Distribution Operator
- Grade 5 Waste Water Treatment Operator

2. College Degrees and Certificates - \$2,500.00 Lump Sum

- Ph.D.
- Master's Degree
- Bachelor's Degree
- Associate's Degree

3. Technical Certificates - \$2,000.00 Lump Sum

- Grade 4 Water Treatment Operator or Water Distribution Operator
- Grade 3 Water Treatment Operator or Water Distribution Operator
- Grade 2 Water Treatment Operator or Water Distribution Operator
- Grade 1 Water Treatment Operator or Water Distribution Operator
- Grade 4 Waste Water Treatment Operator
- Grade 3 Waste Water Treatment Operator
- Grade 2 Waste Water Treatment Operator
- Grade 1 Waste Water Treatment Operator
- I.C.B.O. Certificates
- Public Works Inspector - NICET
- Cross Connection Control Specialist Certification
- Certified Arborist

4. Vocational Certificates Of Completion

Examples:

- A+ Certification (Computer Hardware, Software & Networking)
- Microsoft Certified Systems Engineer
- Cisco Certified Network Associates
- Operation Of Wastewater Treatment Plants Program administered by California State University, Sacramento Regional and Continuing Education Program
- Title 29 CFR 1910.120(q) - 24 Hour Hazardous Materials (Hazmat) Technician Level III Certification

The amount of the bonus for any Vocational Certificate of Completion shall be based on the following number of hours of course work:

Minimum Hours For Vocational Certificate	Amount
<i>100</i>	<i>\$1,500.00</i>
<i>80</i>	<i>\$1,200.00</i>
<i>60</i>	<i>\$ 900.00</i>
<i>40</i>	<i>\$ 600.00</i>
<i>20</i>	<i>\$ 300.00</i>

5. Technical Certificates - \$1,000.00 Lump Sum

- Chemical Applicator
- Licensed Tree Trimmer
- Automotive Service Technician (ASE)

6. Additional Eligibility Criteria

Additional licenses and certificates eligible for these bonuses, not listed in this Article, may be reviewed and approved by the Department Head in accordance with the following criteria:

- The license or certificate submitted for consideration must directly relate to the employee's current position or future lateral or promotional opportunities in accordance with the provisions of this section.

- The employee earning the license or certificate shall be subject to duties and assignments commensurate with the level of proficiency attained under the City's Professional Development Incentive Program.
- After ratification of this M.O.U., all such requests for consideration for eligibility for such license and certificate bonuses shall be submitted to the Department Head for review, with final approval by the City Manager at his/her sole discretion. The City Manager's determination is not subject to appeal.

The process for receiving a bonus under this program shall be:

1. Prior to beginning any class, program, seminar or study toward a desired certificate or degree, the employee must submit a request to his/her department head for consideration and approval of bonus award. Qualifying classes, programs, seminars or study toward a desired certificate or degree shall not be denied.
2. If prior approval is not obtained, the class, program, seminar or study toward a desired certificate or degree shall not fall within the scope of this Professional Development Incentive Program.
3. Upon obtaining a copy of the certificate or degree, payment will be processed for the specified bonus amount. Bonuses shall not be granted prior to receiving a copy of the degree or certificate. Federal law mandates that any employee receiving a cash bonus will be issued an IRS 1099 statement and will be required to declare this as additional income for tax purposes at the end of the year

The following are not eligible for consideration under this section:

- Any driver's licenses
- Certificates, licenses or degrees required for the position the employee holds
- Certificates, licenses or degrees earned at the expense of the City
- City-sponsored training programs and consortium training programs except for approved tuition reimbursement pursuant to Section 8.10 (D) and (E) of the City of Hollister Personnel Rules & Regulations for Associate degrees, Bachelor's degrees, Master's degrees and Ph.D. degrees.

L. Jury Duty And Subpoenaed Witness

Any eligible employee of this unit shall be allowed to take leave from his/her City duties without loss of wages, leave time or other benefits for the purpose of responding to jury selection or serving on a jury for which he/she has been selected, subject to the limitation that an employee receive paid leave for jury duty not more than once per calendar year. In the case of serving on a jury more than one time during a year, the employee has the option of using leave time to mitigate loss of pay. No employee shall suffer loss of wages or other benefits responding to a subpoena to testify in court on behalf of the City.

M. Bereavement Leave

Eligible, career employees of this unit are eligible for three (3) days of Bereavement Leave upon the death of the following:

- Husbands
- Uncles
- Mother-in-law
- Grandparents
- Fathers
- Sisters-in-law
- Legal Guardians
- Brothers
- Wife
- Aunts
- Father-in-law
- Grandparents-in-law
- Nephews
- State-registered Domestic Partner
- Grandchildren
- Sisters
- Children
- Nieces
- Brothers-in-law
- Mothers

Eligible, career employees of this unit shall be allowed up to five (5) days upon City Manager approval for travel out of state or outside a five-hundred (500) mile radius within the state for Bereavement Leave. Such approval shall not be unreasonably denied.

N. Uniform Allowance

1. A uniform allowance in the amount of sixty dollars (\$60.00) per month will be granted to employees in the classification of Animal Control Supervisor when said employees are required to wear a uniform.
2. An amount of two-hundred dollars (\$200.00) will be paid upon initial employment of any employee in the classification of Animal Control Supervisor for the purchase of uniforms.

O. Automatic Payroll Deposit

All new unit members of the Association shall enroll in the automatic payroll deposit program at the time of their employment with the City or at the time of promotion to this

unit.

P. Administrative Leave

Eligible unit members, who are determined to be overtime ineligible as defined by the Fair Labor Standards Act (FLSA) shall receive eighty (80) hours Administrative Leave on July 1st of each fiscal year. The terms for use of Administrative Leave are as follows:

1. Administrative Leave credit will be accrued at the rate of 3.08 hours per pay period.
2. The entire eighty (80) hours of Administrative leave will be advanced and be available for use on July 1 of each fiscal year.
3. Leave usage will be monitored by having each eligible employee execute a Leave Request. This request must be signed by the individual eligible employee and approved by the Department Director or City Manager. The Administrative Leave usage must be identified and recorded on the official time card for the period in which leave was taken.
4. Residual Administrative Leave not utilized during the fiscal year may not be carried over into a subsequent year. Administrative Leave shall not be cumulative and shall not be converted into monetary compensation, except upon termination or retirement.
5. In the event an eligible employee terminates during the year, unused accrued Administrative Leave shall be paid out in the same manner as unused vacation. If leave has been taken beyond that which is accrued the employee must pay back all excess leave taken.
6. For eligible employees hired during the year, leave credit will be accrued from the date of hire.
7. The Department of Administrative Services will initiate a separate Administrative Leave System for accounting purposes.

Q. Tuition Reimbursement

The City will provide for tuition reimbursement in accordance with provisions of the current

Personnel System Rules and Regulations. In order to be eligible for this reimbursement the employee must obtain prior approval for the course from both the department head and the City Manager.

R. Reclassification and Salary Adjustment Policy

The City and Association agree to develop a structured process for addressing individual reclassifications and resulting salary adjustments that will be consistent with the annual budget process.

S. Christmas Eve Holiday

The City shall provide an additional paid ½ day holiday on the afternoon (4 hours) of December 24th, known as Christmas Eve. The Christmas Eve Holiday shall be observed on the afternoon of the workday preceding the day on which the December 25th Holiday, known as Christmas Day, is observed.

T. Health Care Reform

The City shall review with the Association, during the term of this agreement, any health care insurance, or related insurance proposals, that may assist with controlling escalating insurance costs.

U. Senior Civil Engineer Position

The City shall create a Senior Civil Engineer Job Classification. This job classification shall have the compensation and benefits as the current Associate Civil Engineer position. The current Associate Civil Engineer shall be reclassified to this position. The City shall incur no additional costs as a result of this new job classification.

V. Fleet Maintenance Supervisor - FLSA Exempt

The City has determined that, as a result of its supervisory responsibilities and the level of independent judgement exercised, the Fleet Maintenance Supervisor shall be classified as FLSA Exempt.

Article 13. Maintenance of Operations

- A. The Association agrees that during the term of this M.O.U. and for the period of time necessary for the meet and confer process to conclude a successor M.O.U., neither the Association, nor any representative acting on its behalf, will cause, authorize, engage in, condone or sanction a strike, sick-in, work stoppage, slow down, picketing (other than informational picketing on the employees' own time), concerted or individual failure to report for duty, unauthorized absence, including compliance with a request of another unit's labor organization to engage in or honor such activities against the City, or any activity by any other euphemism known which results in less than the full and faithful performance of any duties of employment.
- B. If the City determines that the Association has engaged in any activity which violates Subsection [A] above, the City may order the forfeiture of all rights and privileges, or any portion thereof, of the Association.
- C. If the City determines that an employee has engaged in any activity which violates subsection A above, the employee member(s) may be subject to disciplinary action up to and including discharge from City service.

Article 14. Prevailing M.O.U.

In the event of a conflict between a specific provision of this M.O.U. and a written rule, regulation, or resolution of the City or any of its divisions, the terms of the M.O.U. shall prevail and said written rule, regulation, or resolution shall be physically amended to conform to the specific provisions of this M.O.U..

Article 15. Reopener

The City and the Mid-Management Association agree to reopen negotiations on or about December 1st, 2012 for the purpose of discussing Article [6] above in light of the City's financial condition provided that the requesting party delivers to the other party a written notice of intent to reopen, accompanied by a written proposal concerning the item. Without receipt of a written notice, written proposal or mutual consent to reopen, this M.O.U. shall not be reopened, except to the extent authorized by law.

The City agrees that the salary adjustments provided in this M.O.U. shall not be reduced during the term of this M.O.U..

Article 16. Drug Free Workplace Policy

The City's Drug Free Workplace Policy, City Personnel Rule 2.05, adopted by Resolution 92-116 (August 3rd, 1992), is incorporated by reference into this M.O.U..

Article 17. Savings Clause

If any article or section of this M.O.U. should be found invalid, unlawful or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this M.O.U. shall remain in full force and effect for the duration of this M.O.U.. In the event of invalidation of any article or section, the City and the Association agree to meet within thirty (30) days for the purpose of meeting and conferring upon said article or section.

Article 18. Furloughs & Furlough Provisions

The Five Percent (5.00%) Reduction specified in Article [6] herein requires all Mid-Management Employees to take thirteen Furlough Days representing one-hundred and four (104) hours or thirteen (13) days without compensation per fiscal year for the term of this agreement in accordance with the following provisions:

- A. All Mid-Management Employees will be credited for any Furlough Hours utilized between July 1st, 2011 and October 31st, 2011.
- B. For each day of Furlough, each Mid-Management Employee shall not report to work or provide any services to the City and shall not receive any compensation whatsoever, including but not limited to, annual leave, sick leave, administrative leave, or compensatory time. The exception to this provision shall be if Management provides written notification to the employee requiring the employee to work on a scheduled furlough day off. Under this exception, employees that work on a furlough day will receive full pay benefit compensation for the time worked that day.
- C. Any Mid-Management Employee who improperly works or provides services to the City on a Furlough day shall not receive any compensation.
- D. The schedule of Furlough days for Mid-Management Employees shall be the last Friday of each month plus four (4) hours on Christmas Eve and four (4) hours on the afternoon of New Year's Eve.
- E. The Five-Percent (5.00%) Reduction representing one-hundred and four (104) hours or thirteen (13) days without compensation per fiscal year for each employee shall be

accounted for by implementing the "smoothing" technique. In this manner, the City shall recognize a savings of 5.00% with the employee receiving compensation reduced by 5.00% for each paycheck issued during the time of the Furlough Period.

- F. The City Manager shall take Furlough Time into consideration when considering requests from Mid-Management Employees for extensions beyond the maximum Vacation Leave Accrual Limits.

Article 19. Term of Agreement

The term of this M.O.U. shall commence on January 1st, 2011 and shall expire on June 30th, 2013, unless otherwise agreed to by both parties. With the exception of Furlough Time credited for July 1, 2011 through October 31st, 2011, all changes identified in this M.O.U. shall become effective upon adoption of this M.O.U.. It is also agreed to by both parties to initiate the meet and confer process in a timely fashion, exchanging written proposals at least thirty (30) days prior to the termination of this agreement.

At the expiration of this Memorandum of Understanding (June 30th, 2013), the provision for the Employee's additional 4.00% CalPERS Contribution shall sunset and any further Employee CalPERS Contribution, excluding the Employee's responsibility for payment of all costs arising from the CalPERS 2.50% @ 55 Enhanced Benefit, shall be subject to further negotiations.

At the request of Mid-Management, the current Memorandum of Understanding may be reopened on December 1st, 2012 solely to address the feasibility and possibility of a Cost of Living Allowance or a reduction to the Employee's additional 4.00% CalPERS Contribution as provided herein. The conditions that shall warrant any such discussions and possible consideration shall be based upon an improvement of the City's current financial situation and its ability to sustain any such proposed increases.

Additionally, during the term of this Memorandum of Understanding, should any other group receive an across-the-board salary increase, the same increase shall be offered to all eligible unit members under the same terms and conditions.

The parties acknowledge that the previous M.O.U. and Side-Letter Agreement that expired on June 30th, 2011 and its terms and conditions remained in effect up to the date of execution of this M.O.U..

The effective date of this Memorandum of Understanding is the date on which the City

Council takes action in an open and public meeting to ratify and approve this M.O.U..

An extension of the term of this agreement on a month to month basis may be made by mutual agreement of the parties.

The above constitutes a full and complete agreement between the parties on all matters within the scope of representation.


CITY OF HOLLISTER

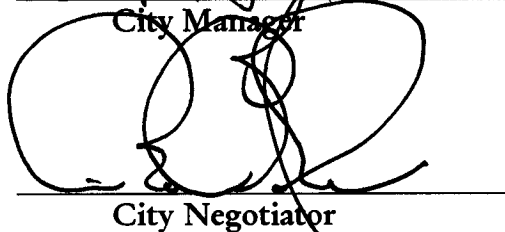
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MID-MANAGEMENT ASSOCIATION

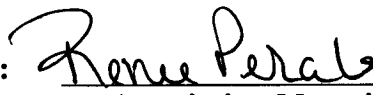
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Dated Nov. 21, 2011

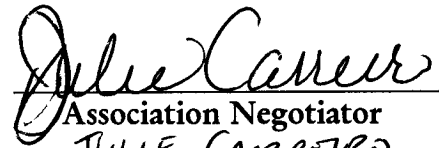
by: 
City Manager

by: 
Association President
DAVID RUBALC

by: 
City Negotiator

by: 
Association Negotiator
Renee Perales

by: 
City Negotiator

by: 
Association Negotiator
JULIE CARRERO